

INTRODUCTION

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2 1. In 2003, Congress passed and the President signed, the Fair and
3 Accurate Credit Transactions Act ("FACTA") to assist in the prevention of identity
4 theft and credit and debit card fraud. In the statement provided by the President
5 during the signing of the bill, the President declared that:

6 "This bill also confronts the problem of identity theft. A growing
7 number of Americans are victimized by criminals who assume their
8 identities and cause havoc in their financial affairs. With this
9 legislation, the Federal Government is protecting our citizens by taking
10 the offensive against identity theft."

11 2. A main provision of FACTA (codified as 15 U.S.C. § 1681c(g) of the
12 Fair Credit Reporting Act), provides that:

13 "**no person** that accepts credit cards or debit cards for the transaction of
14 business **shall print** more than the last 5 digits of the card number or
15 **the expiration date upon any receipt provided to the cardholder** at
16 the point of the sale or transaction."

17 3. The law gave merchants who accept credit and or debit cards up to
18 three years to comply with its requirements, requiring full compliance with its
19 provisions no later than December 4, 2006. Although LABORATORY
20 CORPORATION OF AMERICA HOLDINGS, and the other defendants herein had
21 up to three years to comply, Defendants have willfully violated this law and failed to
22 protect Plaintiff and others similarly situated against identity theft and credit and
23 debit card fraud by printing the expiration date of the card on receipts provided to
24 debit card and credit card cardholders transacting business with Defendants.

25 4. This is a direct violation of FACTA. As the Ninth Circuit has
26 explained: "In fashioning FACTA, Congress aimed to 'restrict the amount of
27 information available to identity thieves.' 149 Cong. Rec. 26,891 (2003) (statement
28

1 of Sen. Shelby)." *Bateman v. American Multi-Cinema, Inc.*, 623 F.3d 708, 718 (9th
2 Cir. 2010).

3 5. Similarly, the Seventh Circuit recently explained the importance of not
4 disclosing the credit or debit card expiration date on a customer's receipt as follows:

5 "The present cases concern the expiration date. The idea behind
6 requiring its deletion is that, should the cardholder happen to lose the
7 receipt of a transaction, the less information the receipt contains the
8 less likely is an identity thief who happens to come upon the receipt to
9 be able to figure out the cardholder's full account information and thus
10 be able to make purchases that the seller will think were made by the
11 legitimate cardholder.

12 A typical credit card has 16 digits and an expiration date that is
13 the last day of a designated month and year. Even if the identity thief
14 has all 16 digits, without the expiration date he may be unable to use
15 the card.... It's common in telephone and internet transactions for the
16 consumer to be asked for an expiration date, and most systems will not
17 allow the would-be customer to keep guessing at the date, as the
18 guessing suggests that he may be an identity thief.

19 Additional reasons for requiring deletion of the expiration date
20 include that 'expiration dates combined with the last four or five digits
21 of an account number can be used to bolster the credibility of a criminal
22 who is making pretext calls to a card holder in order to learn other
23 personal confidential financial information. Expiration dates are
24 solicited by criminals in many e-mail phishing scams ..., are one of the
25 personal confidential financial information items trafficked in by
26 criminals ..., are described by Visa as a special security feature ..., [and]
27 are one of the items contained in the magnetic stripe of a credit card, so
28

1 it is useful to a criminal when creating a phony duplicate card."
2 *Redman v. Radioshack Corp.*, 768 F.3d 622, 626-627 (7th Cir. 2014).

3
4 "[I]dentity theft is a serious problem, and FACTA is a serious
5 congressional effort to combat it." *Redman, supra*, 768 F.3d at 639.

6
7 6. Plaintiff on behalf of herself brings this action against LABORATORY
8 CORPORATION OF AMERICA HOLDINGS and DOES 1 through 10
9 (collectively referred to as "Defendants") based on Defendants' violations of 15
10 U.S.C. §§ 1681 *et seq.*

11 7. Plaintiff seeks, on behalf of herself, statutory damages, punitive
12 damages, costs and attorney fees, all of which are expressly made available by
13 statute, 15 U.S.C. §§ 1681 *et seq.*, for Defendants' unlawful practice of violating
14 FACTA's provisions intended to safeguard against identity theft and credit and debit
15 card fraud.

16
17 **JURISDICTION AND VENUE**

18 8. This Court has federal question jurisdiction pursuant to 28 U.S.C. §
19 1331 and 15 U.S.C. § 1681p.

20 9. Plaintiff resides in this judicial district and all Defendants do business
21 in and reside in this judicial district.

22 10. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and
23 (c) in that defendant LABORATORY CORPORATION OF AMERICA
24 HOLDINGS, has done and continues to do business, and intentionally avails itself
25 of the markets within this district, and it owns, manages, maintains and or operates
26 several physical locations within this district.

1 16. Before filing this lawsuit, Plaintiff timely excluded herself (opted-out)
 2 of the putative class action and proposed settlement in *Legg v. Laboratory*
 3 *Corporation of America Holdings*, Case No. 0:14-cv-61543-RLR (S.D. Fla.).

5 **FIRST CAUSE OF ACTION**

6 **For Violation of 15 U.S.C. §§ 1681 *et seq.***

7 **(On Behalf of Plaintiff against all Defendants including DOES 1 through 10)**

8 17. Plaintiff hereby incorporates by reference the allegations contained in
 9 this Complaint.

10 18. Plaintiff asserts this claim on behalf of herself against Defendants and
 11 each of them.

12 19. Title 15 U.S.C. § 1681c(g)(1) provides that:

13 "no person that accepts credit cards or debit cards for the transaction of
 14 business shall print more than the last 5 digits of the card number or
 15 **the expiration date upon any receipt provided to the cardholder** at
 16 the point of the sale or transaction."

17 20. By its express terms, 15 U.S.C. § 1681c(g)(1) applies to "any cash
 18 register or other machine or device that electronically prints receipts for credit card
 19 or debit card transactions" after December 3, 2006 (15 U.S.C. § 1681c(g)(3)).

20 21. Defendants transact business in the United States and accept credit
 21 cards and or debit cards in the course of transacting business with persons such as
 22 Plaintiff. In transacting such business, Defendants use cash registers and or other
 23 machines or devices that electronically print receipts for credit card and/or debit
 24 card transactions.

25 22. After December 3, 2006, and within the class period for the case
 26 entitled *Legg v. Laboratory Corporation of America Holdings*, Case No. 0:14-cv-
 27 61543-RLR (S.D. Fla.), Defendants, at the point of a sale or transaction with
 28 Plaintiff ERIN DE CESARE, provided Plaintiff ERIN DE CESARE with one or

1 more electronically printed receipts on each of which Defendants printed the
2 expiration date of her credit card or debit card.

3 23. As set forth above, FACTA was enacted in 2003 and gave merchants
4 who accept credit and or debit cards up to three years to comply with its
5 requirements, requiring full compliance with its provisions no later than December
6 4, 2006.

7 24. Defendants and each of them knew of and were well informed about
8 the law, including specifically FACTA's requirements concerning the truncation of
9 credit and debit card numbers and prohibition on the printing of expiration dates.

10 25. For example, but without limitation, several years ago, VISA,
11 MasterCard, the PCI Security Standards Council (a consortium founded by VISA,
12 MasterCard, Discover, American Express and JCB), companies that sell cash
13 register and other devices for the processing of credit or debit card payments,
14 companies that sell software to operate payment card devices, companies that
15 maintain and repair hardware or software used to process payment card transactions,
16 and other entities informed Defendants and each of them about FACTA, including
17 its specific requirements concerning the truncation of credit and debit card numbers
18 and prohibition on the printing of expiration dates, and Defendants' need to comply
19 with same.

20 26. Other entities, including but not limited to Defendants' merchant bank
21 (also known as the acquiring bank or acquirer) which processes credit and debit card
22 payments for transactions occurring at Defendants' physical locations, likewise
23 informed Defendants and each of them about FACTA, including its specific
24 requirements concerning the truncation of credit and debit card numbers and
25 prohibition on the printing of expiration dates, and Defendants' need to comply with
26 same.

27 27. In addition, many companies such as VISA and MasterCard devised
28 and implemented policies well before the operative date of FACTA's requirements,

1 wherein such policies VISA, MasterCard and others required Defendants (and
2 informed Defendants of the requirements) to truncate credit and debit card numbers
3 and prevent the printing of expiration dates on receipts. In addition, these
4 companies also publically announced some of these requirements. For example, on
5 March 6, 2003, VISA USA's CEO, Carl Pascarella, held a press conference on
6 Capitol Hill with Senators Dianne Feinstein, Judd Gregg, Jon Corzine and Patrick
7 Leahy, and publically announced Visa USA's new truncation policy to protect
8 consumers from identity theft. At the March 2003 press conference, Mr. Pascarella
9 explained, as follows:

10 "Today, I am proud to announce an additional measure to combat
11 identity theft and protect consumers. **Our new receipt truncation**
12 **policy will soon limit cardholder information on receipts to the last**
13 **four digits of their accounts. The card's expiration date will be**
14 **eliminated from receipts altogether.** This is an added security
15 measure for consumers that doesn't require any action by the
16 cardholder. We are proud to be the first payments brand to announce
17 such a move to protect cardholders' identities by restricting access to
18 their account information on receipts.

19 **The first phase of this new policy goes into effect July 1, 2003**
20 **for all new terminals.** I would like to add, however, that even before
21 this policy goes into effect, **many merchants have already**
22 **voluntarily begun truncating receipts, thanks to groundwork that**
23 **we began together several years ago.**

24 Receipt truncation is good news for consumers, and bad news for
25 identity thieves. Identity thieves thrive on discarded receipts and
26 documents containing consumers' information such as payment account
27 numbers, addresses, Social Security numbers, and more. Visa's new
28 policy will protect consumers by limiting the information these thieves

1 can access." (Statements made by VISA USA's CEO, Carl Pascarella
2 at a March 6, 2003 press conference held at Capitol Hill with Senators
3 Dianne Feinstein, Judd Gregg, Jon Corzine and Patrick Leahy.)

4 28. Moreover, the Government, through the Federal Trade Commission
5 ("FTC"), provided notice to businesses on no less than three separate occasions in
6 2007 reminding them of the requirement to truncate credit and debit card
7 information on receipts. Defendants were informed of and knew about these notices
8 from the FTC. In one such notice, entitled "FTC Business Alert" "Slip Showing?
9 Federal Law Requires All Businesses to Truncate Credit Card Information on
10 Receipts," and dated May 2007, the FTC reminded businesses, among other things,
11 of the following:

12 "What's on the credit and debit card receipts you give your
13 customers? The Federal Trade Commission (FTC), the nation's
14 consumer protection agency, says it's time for companies to check their
15 receipts and make sure they're complying with a law that's been in
16 effect for all businesses since December 1, 2006.

17 According to the federal Fair and Accurate Credit Transaction
18 Act (FACTA), the electronically printed credit and debit card receipts
19 you give your customers must shorten — or truncate — the account
20 information. You may include no more than the last five digits of the
21 card number, and **you must delete the card's expiration date**. For
22 example, a receipt that truncates the credit card number and deletes the
23 expiration date could look like this:

24
25 ACCT:*****12345

26 EXP:****

27 Why is it important for businesses to make sure they're
28 complying with this law? Credit card numbers on sales receipts are a

1 'golden ticket' for fraudsters and identity thieves. Savvy businesses
2 appreciate the importance of protecting their customers — and
3 themselves — from credit card crime."

4 29. Defendants also knew that their electronic receipt printing equipment
5 (inclusive of software and other codes) were configured and/or otherwise outdated
6 such that they would print and were printing debit card and credit card receipts that
7 displayed the card's expiration date printed on each customer's receipt in violation of
8 FACTA. Despite this knowledge, Defendants decided to forego and otherwise
9 avoid the expense, time and other resources required to properly configure and
10 update their electronic receipt printing equipment (inclusive of software and other
11 codes) such that they would not print information (such as the card expiration date)
12 prohibited by FACTA. Thus, Defendant's violations of FACTA were not accidental
13 oversights, but were a means of avoiding the additional expense, time, and other
14 resources required to properly configure and otherwise update their electronic
15 receipt printing equipment.

16 30. As set forth above, Defendants put their own interests ahead of and
17 instead of their customers' rights under FACTA.

18 31. Thus, despite knowing and being repeatedly informed about FACTA
19 and the importance of truncating credit and debit card numbers and preventing the
20 printing of expiration dates on receipts, and despite having had over three years to
21 comply with FACTA's requirements, Defendants and each of them knowingly
22 willfully, intentionally, and recklessly violated FACTA's requirements by, *inter alia*,
23 printing the expiration date of the card upon the receipts provided to the cardholders
24 with whom they transact business.

25 32. Defendants' business peers and competitors brought their credit and
26 debit card receipt printing processes in compliance with FACTA's requirements by,
27 for example, doing things such as programming their card machines and devices to
28 prevent them from printing more than the last five digits of the card number and or

1 the expiration date upon the receipts provided to the cardholders. Defendants could
2 have readily done the same.

3 33. Instead, Defendants knowingly, willfully, intentionally, and recklessly
4 disregarded FACTA's requirements and used cash registers and or other machines or
5 devices that printed receipts in violation of FACTA.

6 34. Defendants knowingly, willfully, intentionally, and recklessly violated
7 FACTA in conscious disregard of the rights of Plaintiff and the CLASS.

8 35. Defendants have also harmed Plaintiff by exposing her to at least an
9 increased risk of identity theft and credit and or debit card fraud.

10 36. As a result of Defendants' willful violations of FACTA, Defendants are
11 liable to Plaintiff for statutory damages, punitive damages, costs and attorney fees,
12 all of which are expressly made available by statute, 15 U.S.C. § 1681n, for
13 Defendants' unlawful practice of violating FACTA's provisions intended to
14 safeguard against identity theft and credit and debit card fraud.

15
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for:

18 1. An award to Plaintiff of statutory damages pursuant to 15 U.S.C. §
19 1681n for Defendants' willful violations;

20 2. An award to Plaintiff of punitive damages pursuant to 15 U.S.C. §
21 1681n;

22 3. Payment of costs of suit herein incurred pursuant to, *inter alia*, 15
23 U.S.C. § 1681n;

24 4. Payment of reasonable attorney's fees pursuant to, *inter alia*, 15 U.S.C.
25 § 1681n; and

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1 5. For such other and further relief as the Court may deem proper.

2
3 Dated: January 4, 2016

/s/ Chant Yedalian

Chant Yedalian

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8 **DEMAND FOR JURY TRIAL**

9 Plaintiff demands a trial by jury on all claims so triable.

10
11 Dated: January 4, 2016

/s/ Chant Yedalian

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